

MONTANA LEGISLATIVE HISTORY

Chapter 212 1969

Bill H 310 S _____ Original bill & history ____C

H. Committee on Highways

Hearing Date(s) Feb 04 ✓C

_____C

_____C

_____C

Date Out _____C

S. Committee on Judiciary

Hearing Date(s) Feb 22 ✓C

_____C

_____C

_____C

Did this bill originate in an interim committee? ____Yes ____No

Committee _____

Report _____

February 4, 1969

The Committee on Highways convened at 10:30 A.M. in Room 436 with Chairman Dye presiding. Fifteen members were present, two were absent.

The chairman advised H.B. 310 was first for consideration.

Representative Newby, sponsor of the bill, spoke briefly stating that it was a bill that has been recommended by the U.S. Congress and has to do with relocation of people whose homes or businesses are disrupted by the fact that the highway goes through the area which they live or have a business.

Mr. Champion, Montana Highway Department, explained that the purpose of the bill is to allow or to make legal the payments to individuals or businesses who residences or business are displaced as a result of acquisition by a federal aid highway project. This bill would make legal, supplemental payments to these persons. Basically, he said, the most serious situations are retired or low income persons whose home is taken where the fair market value was \$5000 to \$6,000 but could not be replaced for this amount. He added this feeling was reflected nationally in the Highway Act of 1968. The Highway Department must follow this act or they will not receive their federal aid on the particular project involved. He explained different sections of the bill pertaining to moving expenses, relocation advisory assistance, supplemental rent payments for tenants.

Don McPherson, Attorney, Highway Commission, spoke in support of H.B. 310. He explained that this is now federal law. He said it should have been applied geographically but this is not so. It mainly applies to sections such as the ghettos in the east. He said they do not foresee any big problems in Montana. He stated in our bigger cities as Great Falls, Billings, Butte, etc., the interstate system has been completed. He stated if this bill was not passed they, the Highway Commission, would face the loss of federal funds. He asked the committee for their serious consideration of this bill. He mentioned there was a 50 mile limit for moving people but in cases of real hardship this could be adjusted.

A discussion and question and answer period followed. Witnesses were excused.

H.B. 489 was next for consideration.

Mr. Howard Buswell, Highway Commission, urged the repeal of Section 32-2602. He stated it had been on the books since 1927. He added that they had a bill in the last session to raise the limitation of \$126,500 to \$250,000 but in the closing days of the special session the bill got lost. He urged that this section be eliminated.

A question and answer period followed. Mr. Buswell was excused.

The committee was called to order to consider H.B. 489. After a discussion period, Mr. Healy moved that H.B. 489 "Do Pass." The motion was seconded and the vote was unanimous.

H.B. 310 was next for consideration.

Mr. Healy moved that H.B. 310 "Do Pass." Discussion followed. Mr. Healy's motion was seconded and when put to a vote it carried by a majority vote.

There being no further business to come before the meeting, upon motion made and seconded, it was adjourned.

SENATE JUDICIARY COMMITTEE MEETING - February 22, 1969

The meeting was called to order by the Chairman, Senator Gilfeather. All the members were present except Senator Stephens.

After consideration of House Bill No. 68, a motion was made by Senator Rehberg, seconded by Senator Bollinger, that House Bill No. 68 be concurred in. The motion was carried.

After considering House Bill No. 69, it was moved by Senator Haughey, seconded by Senator Turnage, that House Bill No. 69 be not concurred in. The motion was carried.

After consideration of House Bill No. 109, the following amendments were suggested: Amend on page 2, Section 1, lines 4, 5, 6 and 7 of the original bill; further amend on page 2, Section 2, lines 26 and 27 of the original bill, by inserting a new Section 2 and Section 3. Senator Sheehy made a motion, seconded by Senator Turnage, that the amendments be adopted. The motion was carried. Senator Turnage then moved, seconded by Senator Sheehy, that House Bill No. 109, as amended, be concurred in. The motion was carried.

After considering House Bill No. 134, Senator Turnage made a motion, seconded by Senator Sheehy, that House Bill No. 134 be not concurred in. The motion was carried.

After consideration of House Bill No. 304, it was moved by Senator Turnage, seconded by Senator Haughey, that House Bill No. 304 be concurred in. The motion was carried.

After considering House Bill No. 310, it was moved by Senator Bollinger and seconded by Senator Sheehy that House Bill No. 310 be concurred in. The motion was carried.

After considering House Bill No. 374, Senator Haughey made a motion, seconded by Senator Bollinger, that House Bill No. 374 be concurred in. The motion was carried.

After consideration of House Bill No. 388, the following amendments were offered: Amend page 1, Section 1, lines 25, 26 and 27 of the original bill; and further amend of page 2, Section 1, lines 1 through 4 of the original bill. It was then moved by Senator Sheehy, seconded by Senator Turnage, that the amendments be adopted. The motion was carried. Senator Turnage made a motion, seconded by Senator Sheehy, that House Bill No. 388, as amended, be concurred in. The motion was carried.

After considering House Bill 389, the following amendments were proposed: Amend on page 2, Section 1, line 6 of the original. It

9 (32-4709) for signs which may theretofore have been removed from areas adjacent to the primary system."

Approved: March 4, 1969.

CHAPETR 212

An Act to Provide for Relocation Assistance for Persons Affected by Real Property Acquisitions for State Highway Purposes, and Amending Section 93-9913, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Payment of
moving expenses.

Section 1. The payment of moving expenses shall be made to eligible persons in accordance with the provisions of this act and such rules and regulations as shall be adopted by the Montana highway commission.

Rules and
regulations.

Section 2. The highway commission is authorized to adopt rules and regulations to implement the payment of moving expenses as authorized by this act. Such rules and regulations may include provisions authorizing payments made to individuals and families of fixed amounts not to exceed two hundred dollars (\$200) in lieu of their respective reasonable and necessary moving expenses.

Section 3. As used in this act:

"Displaced
person."

(a) "Displaced person" means any individual, family, business or farm operation which moves from real property acquired for state purposes or for a federal-aid highway.

"Individual."

(b) "Individual" means a person who is not a member of a family.

"Family."

(c) "Family" means two or more persons living together in the same dwelling unit who are related to each other by blood, marriage, adoption or legal guardianship.

"Business."

(d) "Business" means any lawful activity conducted primarily for the purchase and resale, manufacture, processing or marketing of products, commodities, or other personal property; or for the sale of services to the public; or by a nonprofit corporation.

(e) "Farm operation" means any activity conducted primarily for the production of one or more agricultural products or commodities for sale and home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

"Farm operation."

Section 4. (a) The commission is authorized to give relocation advisory assistance to any individual, family, business or farm operation displaced because of the acquisition of real property for any project on the state highway systems.

Relocation
advisory
assistance.

(b) In giving such assistance, the commission may establish a temporary local relocation advisory assistance office to assist in obtaining replacement facilities for individuals, families and businesses which must relocate because of the acquisition of right-of-way for any project on the state highway systems.

Section 5. (a) As a part of the cost of construction the commission may compensate a displaced person for his actual and reasonable expense in moving himself, family, business or farm operation, including moving personal property.

Compensation of
displaced persons.

(b) Any displaced person who moves from a dwelling who elects to accept the payments authorized by this subdivision in lieu of the payments authorized by subdivision (a) of this section may receive a moving expense allowance, determined according to a schedule established by the commission not to exceed two hundred dollars (\$200), and in addition a dislocation allowance of one hundred dollars (\$100).

(c) Any displaced person who moves or discontinues his business or farm operation who elects to accept the payment authorized by this subdivision in lieu of the payment authorized by subdivision (a) of this section, may receive a fixed relocation payment in an amount equal to the average annual net earnings of the business or farm operation, or five thousand dollars (\$5,000), whichever is lesser. In the case of a business, no payment shall be made under this subdivision unless the commission is satisfied that the business cannot be relocated without a substantial loss of patronage, and is not a part of a commercial enterprise having at least one (1) other establish-

ment, not being acquired, which is engaged in the same or similar business. For purposes of this subdivision, the term "average annual net earnings" means one-half ($\frac{1}{2}$) of any net earnings of the business or farm operation, before federal and state income taxes, during the two (2) taxable years immediately preceding the taxable year in which such business or farm operation moves from the real property acquired for such project, and includes any compensation paid by the business or farm operation to the owner, his spouse or his dependents during such two (2) year period. To be eligible for the payment authorized by this subdivision the business or farm operation must make its state income tax returns available and its financial statements and accounting records available for audit and confidential use to determine the payment authorized by this subdivision.

Payments for dwellings occupied less than one year.

Section 6. (a) In addition to the payments authorized by section 5, the commission, as a part of the cost of construction, may make a payment to the owner of real property acquired for a project on the state highway systems which is improved with a single, two (2) or three (3) family dwelling, actually owned and occupied by the owner for not less than one (1) year prior to the first written offer for the acquisition of such property.

(b) Such payment, not to exceed five thousand dollars (\$5,000), shall be the amount, if any, which, when added to the acquisition payment, equals the average price required for a comparable dwelling determined, in accordance with standards established by the commission, to be a decent, safe, and sanitary dwelling adequate to accommodate the displaced owner, reasonably accessible to public services and place of employment and available on the market.

(c) Such payment shall be made only to a displaced owner who purchases and occupies a dwelling, that meets standards established by the commission, within one (1) year subsequent to the date on which he is required to move from the dwelling acquired for the project.

Payments for dwellings occupied less than 90 days.

Section 7. (a) In addition to the payment authorized by section 5, as a part of the cost of construction, the commission may make a payment to any individual or family displaced from any dwelling not eligible to receive

a payment under section 6, which dwelling was actually and lawfully occupied by such individual or family for not less than ninety (90) days prior to the first written offer for the acquisition of such property.

(b) Such payment, not to exceed one thousand five hundred dollars (\$1,500), shall be the additional amount which is necessary to enable such individual or family to lease or rent for a period not to exceed two (2) years, or to make the down payment on the purchase of a decent, safe and sanitary dwelling of standards adequate to accommodate such individual or family in areas not generally less desirable in regard to public utilities and public and commercial facilities.

Section 8. Any displaced person aggrieved by a determination as to eligibility for a payment authorized by this act, or the amount of a payment, may have his application reviewed by the highway commission, whose decision shall be final.

Review of decisions.

Section 9. The commission is authorized to adopt rules and regulations to implement this act, and such other rules and regulations relating to highway relocation assistance as may be necessary or desirable under federal laws and the rules and regulations promulgated thereunder. Such rules and regulations shall include provisions relating to:

Rules and regulations.

(a) A moving expense allowance, as provided in subdivision (b) of section 5, for a displaced person who moves from a dwelling, determined according to a schedule, not to exceed two hundred dollars (\$200);

(b) The standards for decent, safe, and sanitary dwellings;

(c) Procedure for an aggrieved displaced person to have his determination of eligibility or amount of payment reviewed by the commission; and

(d) Eligibility of displaced persons for relocation assistance payments, the procedure for such persons to claim such payments and the amounts thereof.

Section 10. No payment received by a displaced person under this article shall be considered as income for Montana state income tax purposes.

Payments not included in income.

Not to be
construed as
condemnation.

Section 11. Nothing contained in this act shall be construed as creating in any condemnation proceedings brought under the power of eminent domain any element of damages not in existence on the date of enactment of this act.

Amending clause.

Section 12. Section 93-9913 is amended to read as follows:

Date to which
compensation will
be assessed.

"93-9913. **The date with respect to which compensation shall be assessed.** For the purpose of assessing compensation the right thereto shall be deemed to have accrued at the date of the service of the summons, and its actual value as of that date shall be the measure of compensation for all property to be actually taken, and the basis of depreciation in value of property not actually taken, but injuriously affected. This shall not be construed to limit the amount of compensation payable by the state highway commission under the provisions of any legislation enacted pursuant to the Federal Highway Beautification Act of 1965. If an order be made letting the plaintiff into possession, as provided in section 93-9920, the full amount finally awarded shall draw lawful interest from the date on which the property owner surrenders possession of the property in accordance with the terms of such order to the earlier of the following dates:

(a) The date on which the right to appeal to the Montana supreme court expires, or if appeal is filed, to the date of final decision by the supreme court, or

(b) The date on which the property owner withdraws from court the full amount finally awarded.

If the property owner withdraws from court a fraction of the amount finally awarded, interest on such fraction shall cease on the date it is withdrawn but interest on the remainder of the amount finally awarded shall continue to the earlier of the aforesaid dates defined in (a) and (b) of this section. None of the amount finally awarded shall draw interest after the date on which the right to appeal to the Montana supreme court expires. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation or depreciation in value,

nor shall the same be used as the basis of computing such compensation or depreciation."

Approved: March 4, 1969.

CHAPTER 213

An Act to Amend Section 53-109, R.C.M. 1947, to Increase the Value Limitation From One Thousand Dollars (\$1,000) to Four Thousand Dollars (\$4,000) of Motor Vehicles, and/or Trailers, and/or Semitrailers, and/or Trailer Houses Registered in the Name of a Decedent, the Title to Which May Be Transferred by the Decedent's Surviving Spouse or Other Heir in Those Cases in Which Probate of the Decedent's Estate Is Not Necessary.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. Section 53-109, R.C.M. 1947, is hereby amended to read as follows:

Amending clause.

"53-109. **Transfer of title or interest.** (a) Upon a transfer of any title or interest of an owner or owner in or to a motor vehicle registered under the provisions of this act as hereinbefore required, the person or persons whose title or interest is to be transferred shall write their signatures with pen and ink upon the certificate of ownership issued for such vehicle, in the appropriate space provided upon the reverse side of such certificate, and such signature shall be acknowledged before a notary public.

Transfer of title
or interest.

(b) Within ten (10) days thereafter, the transferee shall forward both the certificate of ownership so endorsed and the certificate of registration, together with the information required under section 53-107, to the registrar, who shall file the same upon receipt thereof and no certificate of ownership and certificate of registration shall be issued by the registrar of motor vehicles until the outstanding certificates are surrendered to that office or their loss established to his reasonable satisfaction.

(c) The provisions of subdivision (b) of this section, requiring a transferee to forward the certificate